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8/17/01  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROHAN R. PERSAUD,  
Petitioner

v.

JOHN ASHCROFT, et al.  
Respondents

:  
: CIVIL NO. 1:CV-01-1255  
:  
: (Judge Rambo)  
:  
:

FILED  
HARRISBURG, PA

AUG 16 2001

MARY E. D'ANDREA, CLERK  
PER gls DEPUTY CLERK

ORDER

On July 6, 2001, petitioner, Rohan Persaud, filed the instant petition for writ of habeas corpus requesting this Court to enter an order requiring his release from Lackawanna County Jail where he is currently being detained pursuant to federal authority pending his removal from the United States to his native Guyana. On July 23, 2001, petitioner filed a "request of alien's file by subpoena duces tecum of discovery" (Doc. 4) which was denied as premature by Court order (Doc. 5) dated July 27, 2001. Petitioner stated the discovery was necessary so he could respond to respondents' brief in response to habeas petition. However, respondents had yet to file a response brief.


On July 30, 2001, respondents filed their opposition to the petition for writ of habeas corpus. Respondents contend the petition should be dismissed because petitioner, via his attorney, filed a motion with the BIA requesting reconsideration of the BIA's denial of petitioner's motion to remand removal proceedings. The motion for reconsideration appears to be currently pending before the BIA and, by order dated July 19, 2001, the BIA granted petitioner a stay of removal pending consideration of his motion. On August 6, 2001, petitioner filed a motion for reconsideration of request of

alien's file by subpoena duces tecum of discovery and extension of time to file his traverse for an additional fifteen (15) days beyond his receipt of discovery.

Without going into a full analysis of respondents' brief at this time, it appears that petitioner is not properly before this Court since he has failed to exhaust his administrative remedies and has requested a stay of his removal.<sup>1</sup> Because it may not be necessary to have complete discovery in this matter, petitioner's motion for reconsideration of request of alien's file is denied at this time pursuant to Federal Rules of Civil Procedure 26. Discovery may be ordered if it is deemed necessary by this Court. Petitioner has fifteen (15) days from the date of this order to submit his traverse.

AND NOW, THEREFORE, THIS 16 DAY OF AUGUST, 2001, IT IS HEREBY ORDERED THAT:

1. Petitioner's motion for reconsideration (Doc. 8) is denied pursuant to Fed. R. Civ. P. 26.
2. Petitioner has fifteen (15) days from the date of this order to submit a reply brief.

  
SYLVIA H. RAMBO  
United States District Judge

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<sup>1</sup>Having specifically sought a stay of his removal, petitioner may be prohibited from now claiming he should be released because "there is no sufficient likelihood of removal in the foreseeable future." See Zadvydas v. Davis, 121 S.Ct. 2491 (June 28, 2001).

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

August 16, 2001

Re: 1:01-cv-01255 Persaud v. Ashcroft

True and correct copies of the attached were mailed by the clerk  
to the following:

Rohan R. Persaud  
CTY-LACK  
A38-746-586  
Lackawanna County Prison  
1371 N. Washington Ave.  
Scranton, PA 18509

Lorna N. Graham, Esq.  
U.S. Attorney's Office  
Federal Building  
P.O. Box 309  
Scranton, PA 18501

Martin Carlson  
United States Attorney  
228 Walnut Street  
Second Floor  
Harrisburg, PA 17108


cc:

Judge	( )	( )	Pro Se Law Clerk
Magistrate Judge	( )	( )	INS
U.S. Marshal	( )	( )	Jury Clerk
Probation	( )		
U.S. Attorney	( )		
Atty. for Deft.	( )		
Defendant	( )		
Warden	( )		
Bureau of Prisons	( )		
Ct Reporter	( )		
Ctroom Deputy	( )		
Orig-Security	( )		
Federal Public Defender	( )		
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )	
Standard Order 93-5	( )		
Order to Show Cause	( )	with Petition attached & mailed certified mail	

to: US Atty Gen ( ) PA Atty Gen ( )  
DA of County ( ) Respondents ( )  
Bankruptcy Court ( )  
Other \_\_\_\_\_ ( )

MARY E. D'ANDREA, Clerk

DATE: 8/16/01

BY:   
Deputy Clerk